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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,823	04/03/2002	Nicholas D Hutchins	2520/3	5596
7590 09/08/2004				
Charles C Valauskas Baniak Pine & Gannon 150 North Wacker Drive Suite 1200 Chicago, IL 60606			EXAMINER NEGRON, ISMAEL	
			ART UNIT 2875	PAPER NUMBER
DATE MAILED: 09/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/089,823

Applicant(s)

HUTCHINS ET AL.

K

Examiner

Ismael Negron

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): claims 45 and 46.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 30 and 42-46.

Claim(s) objected to: _____.

Claim(s) rejected: 1-8, 10-14, 17-19, 29 and 32-40.Claim(s) withdrawn from consideration: 41.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☒ Other: See continuation sheet for a response to arguments


JOHN ANTHONY WARD
PRIMARY EXAMINER

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on August 6, 2004 has been entered. Claims 1, 30 and 42 have been amended. Claim 41 has been cancelled. No claim has been added. Claims 1-8, 10-14, 17-19, 29, 30, 32-40 and 42-46 are still pending in this application, with claims 1, 30, 32 and 42 being independent.

Response to Arguments

2. Applicant's arguments filed August 6, 2004 have been fully considered but they are not persuasive.

3. Regarding the Examiner's rejection of claims 1-8, 10-14, 17-19 and 29 under 35 U.S.C. 103(a) as unpatentable over MISTOPOULOS (U.S. Pat. 6,113,248), the applicant argues that the cited reference fails to disclose, or suggest, all the features of the claimed invention, specifically the elongated support and the plurality of electronics devices to be fully enclosed within the plastic enclosure. The applicant further argues that MISTOPOULOS fails to suggest and even teaches away from the "fully enclosed" limitation and notes that none of the disclosed figures shows the claimed structure. The cited reference, the applicant states, merely suggests the importance of using materials having superior bonding characteristics for the plastic enclosure.

4. In response to applicant's argument that there is no explicit suggestion in MISTOPOULOS to modify the patented plastic enclosure to fully enclosed the elongated support and the plurality of electronics devices, the examiner recognizes that

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obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, MISTOPOULOS states the need for protecting from moisture the LED circuitry and circuit substrate. Using materials with superior bonding characteristics was specifically suggested as a solution; however, it is the recognition of the problems presented by moisture what is relevant.

The applicant is advised that in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968). As stated in the previous Office Action, one of ordinary skill in the art would have recognized the exposed ends of the pair of electrical conductors 15a and 15b as a possible point of moisture damage. Eliminating such weakness by fully enclosing the electrical conductors within the plastic enclosure would have flown naturally.

The applicant is further advised that the test for obviousness is not whether the claimed invention is expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negrón whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (571) 272-2378. The facsimile machine number for the Art Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.


Inr

August 26, 2004


JOHN ANTHONY WARD
PRIMARY EXAMINER